

Appl. No. 10/032,962
Amdt. dated February 14, 2006
Reply to Final Office Action of November 14, 2005

REMARKS

Applicant has carefully reviewed the Examiner's remarks presented in the Advisory Action dated January 23, 2006 and the Final Office Action mailed November 14, 2005 prior to preparing this response. As there was no indication on the Advisory Action of entry of the Response After Final submitted on January 10, 2006, Applicant expressly requests non-entry of the Response After Final dated January 10, 2006. As this paper is submitted within the three-month statutory period ending on February 14, 2006, no extension of time is deemed necessary.

Currently claims 1-5 and 7-22 are pending in the application, wherein claims 1-5, 8, 11-14 and 16 have been rejected by the Examiner, and claims 7, 9, 10, 15 and 17-22 have been withdrawn from consideration consequent an Examiner-induced requirement for restriction. Applicant traverses all rejections and assertions made in the Advisory Action and Final Office Action. Claims 1, 4, 11, 13 and 14 have been amended, claims 19-22 have been cancelled, and claims 23-28 have been added with this paper. No new matter has been added with the amendments. Favorable consideration of the above amendments and following remarks is respectfully requested.

Claims 1-5, 8, 11-15 and 16 stand rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Shoup et al., U.S. Patent No. 5,591,129. Applicant respectfully traverses this rejection.

Applicant asserts Shoup et al. fail to teach what is claimed in claim 1. Namely, Shoup et al. fail to teach a balloon waist including a plurality of voids, wherein the void volume created by the voids is greater proximate the second end of the balloon waist than proximate the first end of the balloon waist.

In following the Examiner's position that "the portion of the Shoup et al. balloon 10 between areas 19 and 29 may fairly be considered to be a waist", which Applicant notes is inconsistent with the express teachings of Shoup et al. (See Response AF, January 10, 2006) and which Applicant does not concede as correct, then the "waist" taught in Shoup et al. does not teach the limitations as currently claimed. Namely, the "waist" does not include a void volume proximate the second end which is greater than the void volume proximate the first end of the "waist". If the "waist" is characterized as extending between areas 19 and 29, then neither the portion proximate the proximal end (near area 19), nor the portion proximate the distal end (near

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area 29) includes a void volume created by a plurality of voids, nonetheless a void volume proximate the one end that is greater than a void volume proximate the other end.

For at least these reasons, Shoup et al. fail to anticipate, or render obvious, the invention claimed in claim 1. Therefore, claim 1 is believed to be in condition for allowance and withdrawal of the rejection is respectfully requested. As each of claims 2-5 and 8 depend from claim 1 and contain significant additional limitations, Applicant asserts that these claims are additionally in condition for allowance.

Applicant asserts Shoup et al. fail to teach what is claimed in claim 11. Namely, Shoup et al. fail to teach a balloon waist having a material volume per unit length and a void volume per unit length, wherein the balloon includes "means for altering the void volume per unit length over a substantial portion of the balloon waist prior to thermal reformation such that the void volume per unit length increases distally along the length of the balloon waist to the distal end."

In following the Examiner's position that "the portion of the Shoup et al. balloon 10 between areas 19 and 29 may fairly be considered to be a waist", which Applicant notes is inconsistent with the express teachings of Shoup et al. (See Response AF, January 10, 2006) and which Applicant does not concede as correct, then the "waist" taught in Shoup et al. does not teach the limitations as currently claimed. Namely, the orifices 26 and 27 formed in the side wall of the tip 25 appear to be centrally located between areas 19 and 29. Additionally, the first stage of three orifices 27 appears to be equivalent in all respects to the second stage of three orifices 26. See Shoup et al., column 5, lines 33-50. As the same quantity, size and distribution of orifices 26, 27 is taught at each "stage" of the tip 25, and the terminus 29 of the projecting tip 25 is devoid of any orifices, it follows that the void volume per unit length does not increase distally along the length of the "waist" from the proximal end to the distal end. Thus, Shoup et al. fail to teach a means for altering the void volume per unit length over a substantial portion of the balloon waist prior to thermal reformation such that the void volume per unit length increases distally along the length of the balloon waist to the distal end, as currently claimed.

For at least these reasons, Shoup et al. fail to anticipate, or render obvious, the invention claimed in claim 11. Therefore, claim 11 is believed to be in condition for allowance and withdrawal of the rejection is respectfully requested. As each of claims 12-14 and 16 depend

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from claim 11 and contain significant additional limitations, Applicant asserts that these claims are additionally in condition for allowance.

Newly added claims 23-28 are likewise not anticipated, or rendered obvious, by Shoup et al. Specifically, no portion of the balloon taught in Shoup et al. which overlays an elongate tubular member includes a plurality of voids. The orifices 26, 27 formed in the tip 25 must remain unobstructed by other portions of the assembly in order to facilitate egress of fluid through the perfusion lumen 17.

For at least these reasons, Shoup et al. fail to anticipate, or render obvious, any of claims 23-28. Favorable consideration of these claims is respectfully requested.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,



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